MCI Telecommunications Corporation

1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 887 2551
FAX 202 887 2676

Mary L. Brown
Senior Policy Counsel
Federal Law and Public Policy

ORIGINAL

April 26, 1999

DOCKET FILE COPY ORIGINAL

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. SW
TWA-325
Washington, D.C. 20554

Re: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Carrier Changes of Consumers Long Distance Carriers, CC Docket No. 94-129

Dear Ms. Salas:

Enclosed for filing are the original and four (4) copies of Joint Reply Comments to a Joint Petition for Waiver filed March 30, 1999.

A complete set of original signatures for tis joint filing will be provided promptly.

Please acknowledge receipt by affixing an appropriate notation on the copy of the Joint Petition for Waiver furnished for such purpose and remit same to bearer.

Sincerely,

Mary L. Brown

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	
Telecommunications Act of 1996	)	
	)	CC Docket No. 94-129
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers by	)	
Long Distance Carriers	)	

JOINT REPLY

Mark C. Rosenblum
Peter H. Jacoby
AT&T Corporation
295 North Maple Avenue
Basking Ridge, NJ 07920
908-221-4243

Leon Kestenbaum
Jay C. Keithley
Michael B. Fingerhut
Sprint Corporation
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036
202-828-7438

Mary L. Brown
MCI WorldCom, Inc.
1801 Pennsylvania Avenue N.W.
Washington, D.C.
202-887-2551

Carol Ann Bischoff
Robert M. McDowell
Competitive Telecommunications
Association
1900 M Street, N.W., Suite 800
Washington, D.C. 20036
202-296-6650

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
Telecommunications Resellers Assn.
1620 I Street, N..W., Suite 701
Washington, D.C. 20006
202-293-2500

Genevieve Morelli
Senior Vice President of Government Affairs & Senior Associate General Counsel
Qwest Communications Corporation
4250 North Fairfax Drive
Arlington, VA 22203
703-363-0220

Rachel J. Rothstein
Brent M. Olson
Paul W. Kenefick
Cable & Wireless USA
8219 Lessburgh Pike
Vienna VA 22182
(703) 405-5785

James M. Smith
Vice President
Excel Telecommunications, Inc.
1133 Connecticut Avenue, N.W.
Suite 750
Washington, D.C. 20036
202-331-4295

Michael J. Shortley, III
Senior Attorney & Director
Regulatory Services
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646
716-777-1028

April 26, 1999

Summary

On April 16, 1999, the Federal Communications Commission ("Commission") received comments on a revolutionary proposal to reform the way the industry handles and corrects situations in which a customer has alleged an unauthorized conversion of telecommunications service. Under the new plan, the industry would fund a voluntary and competitively neutral third party administrator ("TPA") that would receive consumer complaints about unauthorized conversions, order the consumer to be returned to his or her preferred carrier, conduct a nonbinding dispute resolution process, and provide regular reporting to regulatory authorities on TPA and industry activity. The comments received reflect substantial support for the proposal from consumers, incumbent local exchange carriers (ILECs), and other competitors, in addition to the broad support for the proposal from the sponsoring interexchange carriers, two of whom are entities that are include significant ILEC operations.

In the comments, Bell Atlantic and Ameritech note that many aspects of the proposal are valid conceptually, while GTE supports the development of a third party system. Consumers state that the plan appears to be "comprehensive and workable." Among the benefits cited are that consumers would have a single point of contact to resolve concerns about unauthorized conversions, consumers are likelier to obtain faster resolution of complaints than under the Commission's rules, the third party administrator is more efficient than the Commission's rules, resolution of customer complaints will be performed in a competitively neutral environment, the admininistrator will provide a valuable centralized source of data, and may also be a model for other third party applications. Attorneys General state the proposal holds the potential to streamline both consumer relief and carrier liability.

The MediaOne Group supports the proposal, both because it creates a neutral third party in the position of resolving a complaint about unauthorized conversions, and because it simplifies reimbursement procedures. Similarly, GTE cited its approval of the plan to shift investigation responsibility from the authorized carrier, per the Commission's rules, to the TPA. GTE and Bell Atlantic, also agree that an industry clearinghouse for carrier-to-carrier liability information is an improvement over the Commission's rules.

Even commenters who oppose the TPA found in it elements that they believed had merit. For example, SBC stated that the proxy proposal to be used in lieu of "re-rating" of customer charges is a "good, practical solution to what could be a very sticky problem." Similarly, USTA does not oppose the concept of third party administration if it serves as a clearinghouse for fund transfers and is useful for investigating customer complaints. US West opposes the third party liability administrator proposal while simultaneously acknowedging that ". . . something in the nature of a liability administration process different from the Commission's proposal is clearly necessary. It seems obvious that the authorized carrier . . . should not be put in the position of irritating its former (and now returned) customer by holding against the customer regarding a slamming allegation and rebilling . . . the charges. That function might be more safely performed by a TPA. . . ." Others stated that the administrator could provide some efficiencies in acting as a clearinghouse for information about carrier to carrier payments.

Finally, commenters also supported the Joint Parties request that the Commission defer the effective date of its rules. Extension of the effective date would ensure that the third party process could be initiated on the same day as the Commission's rules, thereby avoiding industry implementation of one set of rules in May 1999, followed by yet another set of rules later this

year. Bell Atlantic also noted that deferral of the effective date would give other carriers time to consider the proposal without being forced to expend resources now to comply with a set of Commission rules that might not be operative six months from now. Bell Atlantic urged the Commission to address the extension request "quickly." Other parties noted that an extension of time would allow the industry to focus on the important task of establishing a third party administrator system, which in their view, is superior to the system outlined by the Commission's December rules.

Despite this broad base of support for the proposal, some commenters do not completely support, and some oppose, the proposed third party administrator. These commenters are generally split into two groups -- those who believe the idea has merit, but who seek modifications to the plan, and those who believe -- contrary to the Commission in its *Second Order* -- that competitively neutral administration of slamming complaints should not be adopted. In these Reply Comments, the Joint Parties first respond to many of the requested modifications proposed by commenters. These modifications, we believe, represent improvements to the proposal that we made, and should serve to make it a more robust system for handling customer complaints.

However, there are some suggested modifications that would, if adopted, eliminate the very consumer benefits that our proposal creates. Indeed, there are some commenters who outright oppose neutral third party resolution of customer complaints, and urge rejection of the plan completely. In these reply comments, the Joint Parties will review the proposed modifications that we do not support, and our reasons for urging the Commission to reject them, as well as the unfounded and faulty rationales advanced by those parties who seek to block the

proposal completely.

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	)	
	)	CC Docket No. 94-129
Policies and Rules Concerning Unauthorized Changes of Consumers by Long Distance Carriers	)	

JOINT REPLY

I. INTRODUCTION

On April 16, 1999, the Federal Communications Commission ("Commission") received comments on a revolutionary proposal to reform the way the industry handles and corrects situations in which a customer has alleged an unauthorized conversion of telecommunications service.[1] Under the new plan, the industry would fund a voluntary and competitively neutral third party administrator ("TPA") that would receive consumer complaints about unauthorized conversions, order the consumer to be returned to his or her preferred carrier, conduct a nonbinding dispute resolution process, and provide regular reporting to regulatory authorities on TPA and industry activity. The proposal, filed by MCI WorldCom, Inc. on behalf of MCI WorldCom, Inc., AT&T Corp., Sprint Corporation, the Competitive Telecommunications Association (CompTel), the Telecommunications Resellers Association, Excel

[1] Public Notice, Common Carrier Bureau Announces Deadline for Filing Comments on MCI WorldCom's Joint Petition for Waiver of Slamming Liability Rules and Third Party Administration Proposal, CC Docket No. 94-129, DA 99-683, released April 8, 1999. The Joint Petition for Waiver was filed March 30, 1999, and was accompanied by a Joint Petition for Extension of the Effective Date of the Rules Or, in the Alternative, for a Stay.

Telecommunications, Inc, Frontier Corporation, Qwest Communications Corporation, (hereinafter "Joint Parties"), [2] responded to an invitation by the Commission in its *Second Report and Order* in the above-captioned docket,[3] for a more efficient mechanism to administer the slamming liability rules than the one that the Commission announced in its order.[4] The comments received reflect substantial support for the proposal from consumers, incumbent local exchange carriers (ILECs), and other competitors, in addition to the broad support for the proposal from the sponsoring interexchange carriers, two of whom are entities that are include significant ILEC operations.

In the comments, Bell Atlantic and Ameritech note that many aspects of the proposal are valid conceptually, while GTE supports the development of a third party system.[5] Consumers state that the plan appears to be "comprehensive and workable."[6] Among the benefits cited are

---

[2] Cable and Wireless, Inc. also sponsors and supports the proposal, and is hereby included as a joint party.

[3] Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers by Long Distance Carriers, *Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 94-129, FCC 98-334, released December 23, 1998 (hereinafter "*Second Order*"). A summary of the decision was published at 64 F.R. 7746, February 16, 1999, as modified by 64 F.R. 9219, February 24, 1999.

[4] The Joint Parties request that the Commission waive the following liability rules for carriers electing to participate in neutral third party liability administration: section 64.1100(c); section 64.1100 (d); section 64.1170; and section 64.1180. In place of these rules, the participating carriers would utilize a neutral third party liability administrator, as detailed in this filing

[5] Bell Atlantic Comments at 1; Ameritech Comments at 1-2; GTE Comments at 2 (both stating that there are particular aspects of the proposal that they wish to have modified prior to adoption).

[6] CPI Comments at 1.

that consumers would have a single point of contact to resolve concerns about unauthorized conversions, consumers are likelier to obtain faster resolution of complaints than under the Commission's rules, the third party administrator is more efficient than the Commission's rules, resolution of customer complaints will be performed in a competitively neutral environment, the admininistrator will provide a valuable centralized source of data, and may also be a model for other third party applications.[7] Attorneys General state the proposal holds the potential to streamline both consumer relief and carrier liability.[8]

The MediaOne Group supports the proposal, both because it creates a neutral third party in the position of resolving a complaint about unauthorized conversions, and because it simplifies reimbursement procedures.[9] Similarly, GTE cited its approval of the plan to shift investigation responsibility from the authorized carrier, per the Commission's rules, to the TPA. GTE and Bell Atlantic, also agree that an industry clearinghouse for carrier-to-carrier liability information is an improvement over the Commission's rules.[10]

Even commenters who oppose the TPA found in it elements that they believed had merit. For example, SBC stated that the proxy proposal to be used in lieu of "re-rating" of customer charges is a "good, practical solution to what could be a very sticky problem."[11] Similarly, USTA

---

[7] CPI Comments at 3. See also Small Business Survival Committee Comments at 2-4.

[8] Attorneys General Comments at 1-2.

[9] MediaOne Group Comments at 1-2.

[10] GTE Comments at 3 and Bell Atlantic Comments at 5. See also US West Comments at 5-6.

[11] SBC Comments at 3.

does not oppose the concept of third party administration if it serves as a clearinghouse for fund transfers and is useful for investigating customer complaints.[12] US West opposes the third party liability administrator proposal while simultaneously acknowedging that ". . . something in the nature of a liability administration process different from the Commission's proposal is clearly necessary. It seems obvious that the authorized carrier . . . should not be put in the position of irritating its former (and now returned) customer by holding against the customer regarding a slamming allegation and rebilling . . . the charges. That function might be more safely performed by a TPA. . . ."[13] Others stated that the administrator could provide some efficiencies in acting as a clearinghouse for information about carrier to carrier payments.[14]

Finally, commenters also supported the Joint Parties request that the Commission defer the effective date of its rules.[15] Extension of the effective date would ensure that the third party process could be initiated on the same day as the Commission's rules, thereby avoiding industry implementation of one set of rules in May 1999, followed by yet another set of rules later this year. Bell Atlantic also noted that deferral of the effective date would give other carriers time to

---

[12] USTA Comments at 2 ("the use of a TPA is well worth examining").

[13] US West Comments at 6 (noting that the industry does not necessarily need to create a TPA for this purpose). See also Rural LECs Comments at 1.

[14] Bell Atlantic Comments at 5. US West Comments at 5-6.

[15] Attorneys General have specifically opposed the request, arguing that a delay in implementing new rules will leave consumers exposed to unauthorized conversions. The Joint Parties respectfully disagree. Current enforcement practices would remain in effect, as would a number of new provisions promulgated in the *Second Order*, and that became effective in mid-April of 1999. Moreover, given the practical implementation challenges posed by the four liability rules for which we seek an extension, it is difficult to imagine how consumers will be more protected by a set of rules that cannot be fully implemented.

consider the proposal without being forced to expend resources now to comply with a set of Commission rules that might not be operative six months from now. Bell Atlantic urged the Commission to address the extension request "quickly."[16] Other parties noted that an extension of time would allow the industry to focus on the important task of establishing a third party administrator system, which in their view, is superior to the system outlined by the Commission's December rules.[17]

Despite this broad base of support for the proposal, some commenters do not completely support, and some oppose, the proposed third party administrator. These commenters are generally split into two groups -- those who believe the idea has merit, but who seek modifications to the plan, and those who believe -- contrary to the Commission in its *Second Order* -- that competitively neutral administration of slamming complaints should not be adopted. In these Reply Comments, the Joint Parties first respond to many of the requested modifications proposed by commenters. These modifications, we believe, represent improvements to the proposal that we made, and should serve to make it a more robust system for handling customer complaints.

However, there are some suggested modifications that would, if adopted, eliminate the very consumer benefits that our proposal creates. Indeed, there are some commenters who

---

[16] Bell Atlantic Comments at note 5. See also GTE Comments at 2, 9-10; Rural LECs Comments at 2-3.

[17] MediaOne Group Comments at 2; CPI Comments at 1, 5; Small Business Survival Committee Comments at 4-5. According to CPI, the Commission should signal its interest in granting the waiver proposal immediately, and simultaneously direct the parties to begin the task of organizing the TPA while the policy issues are being finalized by the Commission in this proceeding. CPI Comments at 4.

outright oppose neutral third party resolution of customer complaints, and urge rejection of the plan completely. In these reply comments, the Joint Parties will review the proposed modifications that we do not support, and our reasons for urging the Commission to reject them, as well as the unfounded and faulty rationales advanced by those parties who seek to block the proposal completely.

II. BACKGROUND

On March 30, 1999, the Joint Parties proposed a voluntary neutral third party liability administrator system that will, for the first time, give consumers, government agencies, and carriers a *single point of contact* that will: (1) quickly resolve customer allegations of unauthorized conversion; (2) independently determine a carrier's compliance with the Commission's verification procedures; (3) honor the Commission's requirements that customers be compensated for their inconvenience; and (4) administer carrier-to-carrier liability. The proposal differs from the Commission's announced rules in several respects: (1) for unpaid charges incurred beginning on the 31st day from the date an unauthorized conversion occurred, the unauthorized carrier must provide the total invoice amount to the third party liability administrator, which will refer it to the preferred carrier; the preferred carrier shall bill the customer at a proxy level of 50 percent of the unauthorized carrier's total charges for service rendered on or after Day 31[18]; (2) customers who paid their bill will receive a refund of 50 percent of their payment, provided the unauthorized carrier compensates the preferred carrier, an

[18] Of course, customers will receive a full (100 percent) credit from the unauthorized carrier of all charges incured up through Day 30 to the extent billing occurred, and all further billings and collections activity shall cease.

amount that in most cases is likely to exceed the payment a customer would receive under the Commission's rules; (3) while carriers will immediately suspend billing and collection activity for a customer raising a challenge, credits and compensation only flow once the third party administrator has been given 30 business days to decide if an unauthorized conversion occurred; and (4) carrier to carrier compensation and customer proxy payments, if applicable, are limited to the most recent three months of usage from the date of the customer complaint to the TPA. These differences permit the creation of a much more streamlined and efficient process that will operate to resolve the vast majority of complaints quickly, while providing financial disincentives for carriers to switch customers without proper authoriziation.

The Commission has itself noted some of the benefits that would accrue in an environment where a third party liability administrator was available to manage and resolve customer complaints of unauthorized conversions. The Commission has noted that a third party liability administrator could potentially operate as a single point of contact for customers who allege an unauthorized conversion. The convenience and clarity of having one number and one place to call to resolve a dispute is of substantial benefit to consumers, who today are faced with the uncertainty of not knowing which carrier to call -- their local exchange carrier, preferred carrier, or unauthorized carrier.[19] In addition, a third party liability administrator would reduce the burden on local exchange carriers in processing unauthorized conversion complaints about long distance carriers. If a third party liability administrator existed, the local exchange carriers are likely to see a reduction in complaints. In the event complaints are received, local exchange carriers could

[19] Small Business Survival Committee Comments at 3 (citing as one of the greatest sources of frustration for small businesses, the need to contact multiple carriers and/or governmental agencies to get a problem resolved).

quickly and easily refer customers to the liability administrator for resolution of their complaints.

The benefits of third party administration include efficiency and substantial simplification of the entire process of resolving customer complaints. Today, a customer alleging an unauthorized conversion may contact several parties -- each of whom is trying to resolve the problem independently of the other.[20] The resulting confusion frequently can lead to a delay in restoring the customer to its preferred carrier. Perhaps even more significantly, a third party administrator would be able to direct the flow of money between carriers on a monthly basis, providing an organized, auditable mechanism to report on carrier-to-carrier liability. This would replace the chaos that is likely to ensue with the implementation of the Commission's rules as adopted. There are no business rules in place to govern how frequently the hundreds of carriers would send bills to each other, the timing of payments, the tracking of nonpayments, or the mechanisms by which such bills would be sent (e.g., by fax, electronic, etc).

Third party administration ensures that the process of honoring customer selection of preferred carriers is governed by a system that places a premium on integrity and equity. A neutral, third party administrator -- not a preferred carrier with obvious competitive motivations as provided for in the Commission's rules -- will make its decision based on the evidence concerning whether an unauthorized conversion has occurred. Ensuring fairness in the initial resolution of customer complaints is a critical step in ensuring that, in the consumer's experience, complaints are resolved correctly. Similarly, if carriers believe a complaint resolution process

---

[20] *Second Order* at para. 57.

works equitably to resolve concerns, they are more likely to utilize it.[21]

Third party liability administration also enables regulators to more easily focus enforcement resources on carriers who appear to affirmatively ignore Commission requirements. Similar benefits accrue to other governmental agencies, such as state regulatory commissions, and state attorney general offices. A third party administrator can provide standardized reporting that can, in relatively short order, identify spikes in activity that suggest possible violations warranting further investigation. The more complaints that are referred to the administrator -- including complaints involving nonparticipating carriers -- the greater the universe of information that the administrator will be able to draw upon and to report to regulators and attorneys general.[22]

In addition, relative to the announced rules, the third party administrator process is likely to result in the reduction of the volume of complaints that federal and state authorities currently adjudicate, since customers can in the first instance be referred to the third party administrator for resolution of their complaints. Only those customers or carriers that believe the dispute resolution process did not produce a fair result are likely to ask for further regulatory involvement in resolving an allegation of unauthorized conversion. Moreover, the third party administrator process is likely to result in faster resolution of customer complaints than the Commission's announced method, which on paper would take at minimum three to four months, and in practice

---

[21] A collateral, but significant, benefit is that neutral administration will create an environment where less regulation is necessary to achieve the Commission's goals. For example, a neutral TPA is better able to assess whether a carrier is utilizing a valid TPV process than would a preferred or authorized carrier, as under the Commission's rules. As a result, the Commission may not need more extensive regulation of TPV scripts, as they have proposed in the Further Notice.

[22] State attorney general offices should also be able to subpoena TPA records for use in criminal investigations.

is likely to take longer. Among the many problems in implementing the Commission's rules as promulgated, is the problem that the accused carrier does not possess the identity of the preferred carrier, and vice versa. This confusion -- and inability to correctly initiate a timely investigation -- will add considerable delay and uncertainty to the Commission's process. By contrast, the third party administrator proposal would result in resolution of the vast majority of complaints in 30 business days.

III. COMMENTING PARTIES HAVE OFFERED MODIFICATION PROPOSALS THAT WILL IMPROVE THE TPA

Commenting parties and other interested parties have offered a number of proposed modifications or clarifications to the proposed system for utilizing a neutral third party to administer slamming complaints. The Joint Parties agree that the following modifications and clarifications will improve the proposal that we initially made on March 30, 1999. For that reason, we hereby offer the following changes to the plan, and urge the Commission to include these changes in its decision granting a waiver of its liability rules and authorizing the creation of the TPA.

A. Override of the three month limitation

The TPA proposal, unlike the Commission rules, utilizes a "proxy" crediting and charging system in lieu of actual re-rating of calls by the customer's preferred carrier. This proxy system, which essentially provides the customer with a 50 percent discount from unauthorized carrier rates, represents a substantial benefit to consumers relative to the Commission's rules. Due to the

decision to offer consumers a 50 percent discount (in addition to continuing the option of a credit of up to 30 days' free service if the bill has not been paid), the Joint Parties proposed that the "50 percent benefit" be limited in time to the most recent three month period during which the customer was served by an unauthorized carrier. At the same time, the Joint Parties also proposed that the TPA have the ability to override the three month limitation in cases where the unauthorized carrier did not engage in regular billing of the customer. NARUC objected to the discretionary nature of the limitation, arguing that it was not clear that the TPA practices would protect consumers.[23]

In response to NARUC's concerns, we wish to clarify our intent with respect to the TPA's discretionary powers. There is no question that the TPA needs to be ready and able to deal with cases in which an unscrupulous carrier changes a customer's PIC and then fails to bill the customer for many months, only later presenting its bill for telecommunications services. In those instances where a carrier fails to issue regular bills to a customer, it is our intent that the TPA not be restricted to the three month limitation. Since factual circumstances are likely to differ, however, we believe that specifying now a business rule for the TPA to follow would limit the TPA's business practices to deal with unique factual circumstances. We belive the better approach is to specify that an override of the three month rule is permissible, and encouraged, in cases in which carriers fail to deliver timely bills, and to further require that, whatever business rules the TPA chooses to follow, that they are applied in a nondiscriminatory manner.[24]

---

[23] NARUC Comments at 2-3.

[24] We decline, however, to adopt NARUC's suggestion that we simply eliminate the three month time limit for a 50 percent discount. The 50 percent discount represents a much more substantial benefit to consumers than the Commission's re-rating rules, since most carrier rates for

Finally, we disagree with the suggestion of the Attorneys General, who seek to have premiums restored based on a customer's actual usage instead of a rolling three month average. Actual usage would require the exchange of detailed call detail information that would defeat the efficiency benefits of the proposal. Basing customer's premium restorations on a rolling three month average should provide the "fair and accurate" restoration measure the Attorneys General seek. If in the rare case a consumer does not believe the process has produced a fair result, that customer can contact his or her carrier for an adjustment.

B. "Soft slams"

The TPA proposal would establish a voluntary process that any carrier could use when a customer claims his or her service has been switched without authorization. It is the Joint Parties present expectation that most of the long distance industry will participate in this process if the Commission approves the waiver proposal. It is our further expectation that participation will include facilities-based long distance carriers that currently allow switchless resellers to utilize a facilities-based carrier's Carrier Identification Code (CIC). NARUC has commented on its concern that the TPA proposal be clarified so that it would include those unauthorized conversions occurring between carriers that share a CIC -- the so-called "soft slams".[25]

---

similar services, while different, do not differ by an order of magnitude of 50 percent. NARUC's proposal would result in a system in which consumers could receive up to 30 days free service plus a 50 percent discount on service without limitation. While we appreciate that NARUC's views are borne of an intolerance for unauthorized conversions, its desire to inflict an open-ended financial penalty on carriers should be raised in the context of the reconsideration of the Commission's *Second Order*, but not as part of this waiver proceeding.

[25] NARUC Comments at 3-4.

We are pleased to provide that clarification. The TPA plan will deliver maximum consumer benefits, and deliver maximum efficiency, if it applies to the maximum number of unauthorized conversions. We will not consider a vendor bid unless it contains provisions for handling unauthorized conversions among carriers sharing a CIC. Of course, the vendor's process in these cases must necessarily be somewhat different than in cases involving carriers with their own CICs. For example, the vendor will need access to information from the facilities-based carriers that will allow it, in real time, to determine the identity of the specific carriers involved in a "soft slam". Our review of facilities-based carrier practices indicate that each facilities-based carrier today has a business process in place to match a telephone number with a reseller's account, and that information can be made accessible to the TPA.

C. TPA examination and collection of evidence; customer contacts

The TPA proposal requires that the vendor, as part of its dispute resolution process, contact the accused carrier to obtain one of the Commission-mandated verifications or any other evidence that the carrier might choose to provide. If a verification is provided that complies with Commission requirements, a presumption is created that no unauthorized conversion occurred. The TPA must then attempt to contact the customer to determine if there is any further evidence the customer wants to offer -- e.g., that a signed letter of authorization is forged, or that the taped voice captured in the event of an independent third party verification is not a person authorized to make the change. Upon resolution, the customer is informed of the TPA's decision, and is given information about where to go if he or she is unsatisfied with the resolution of the complaint.

Both NARUC and the Attorneys General have raised issues with this process. NARUC requests that the TPA's call center be operated according to strict operational standards that will ensure consumers are able to reach the TPA and lodge a complaint.[26] NARUC is concerned that the TPA carefully examine the verification for compliance with Commission rules.[27] NARUC and the Attorneys General argue that the TPA must do more than attempt to the contact the customer, and that the better approach is to require the TPA to contact the customer before the dispute is resolved by the TPA.[28] NARUC and the Attorneys General further argue that the information provided to the customer about other regulatory resources to utilize if the customer remains dissatisfied be clear. The Attorneys General also state that it is important that the TPA contact information describing the process clearly and unambiguously describe the process as a nonbinding one.[29]

In response to these concerns, the Joint Parties offer the following modifications and clarifications of the TPA proposal. First, consistent with our efforts to utilize the third party dispute resolution process to ensure that the industry follows Commission-authorized verification procedures, we modify our proposal to require that the TPA will accept only Commission-mandated verification records, and not any other evidence that carriers choose to provide. This modification ensures that there can be no confusion over when a presumption is created -- it is created only when a carrier presents one of the Commission-mandated verifications of the

---

[26] NARUC Comments at 5.

[27] NARUC Comments at 4.

[28] NARUC Comments at 4.

[29] Attorneys General at 5.

transaction that is being challenged. Furthermore, in response to NARUC's concern, because the TPA is tasked with identifying patterns of false or noncompliant verification, the TPA must be fully acquainted with the Commission's requirements for verification. In fact, with the modification that we are making here to allow the TPA to accept only verification records that comply with the Commission requirements, the TPA must examine the record proferred by the carrier to ensure that it complies with the Commission's rules.

The Joint Parties also wish to clarify that the TPA must make reasonable attempts to contact the customer, including making multiple contact attempts if necessary. Prospective vendors will be evaluated in part based on their proposed business practices to maximize the likelihood that a consumer will be contacted prior to the resolution of a complaint. This is necessary because there is no other way for the TPA to determine whether a verification is valid -- e.g., the signature on an LOA could be incorrect or the voice on the third party verification tape might not be that of a person authorized to make a change. However, there should be no absolute requirement that in all cases a customer must be contacted before the complaint is closed. Imposing such a requirement will have an adverse impact on the TPA's ability to complete its tasks in the 30 business day time period that is promised in this waiver. In addition, such contact may not be necessary, as when a carrier responds to a complaint not with a verification record, but with a "no contest" response. Because NARUC has also indicated in its filing that it is very important to close complaints speedily,[30] the better course is to require the TPA to make multiple attempts to contact the customer when necessary, and to otherwise propose a business practice that will maximize the likelihood of customer contacts. This will

[30] NARUC Comments at (e-6)

ensure that the vendor can live up to its contractual commitments.

In addition, the Joint Parties are in complete agreement with NARUC that the TPA call center be held to specific commitments with respect to its operations. The governing board of the TPA will consider, as part of its review of competing bids, the contractual commitments offered by the vendors with respect to call center operations, and will make those commitments part of the contract with the successful vendor. Nonperformance or performance that falls short of the contract is grounds for dismissing the vendor and seeking a new provider. We will obviously need to balance the cost of the TPA -- and it is important to hold the cost down to encourage maximum participation -- against operational performance. It would be shortsighted, for example, to create an extravagantly expensive system that ensures a live operator will answer on the first ring 24 hours a day, if creating that system means fewer carriers will participate due to the cost. It is our expectation that a competitive bidding environment will produce the best system for consumers at the least cost. Certainly, the Joint Parties want the call center adequately staffed, especially during hours when, based on the participating carriers' mutual experience, consumers are likely to be calling. But we are very reluctant, at this early stage in the TPA's development, to take options off the table that would assist in lowering cost. Instead, the Joint Parties believe the more prudent course is to conduct an independent evaluation of TPA performance, to include customer satsifaction measures, at least once per year and more often if necessary.[31] This information should be made available to the participating carriers and regulatory agencies. We believe it is far better to measure the vendor's performance based on the end result -- consumer

[31] For example, an independent review process could look at questions such as whether the TPA process is working to resolve complaints, are customers satisfied, and has the practice of unauthorized conversions decreased.

satisfaction -- than in dictating detailed operational requirements that might foreclose efficient and useful business practices.

Finally, the Joint Parties are in complete agreement with NARUC and the Attorneys General that when a complaint is closed out in a manner adverse to the consumer, the consumer must be advised of the regulatory options available to him or to her. In those cases, the consumer should automatically receive information about how to file a complaint with the Commission, and should receive information about how to contact a state regulatory agency as well. In cases where the TPA has found in favor of the consumer, that same information should be available, upon inquiry, to the consumer. The information provided by the TPA must be clear and current in all cases.[32] We also agree that consumers must be clearly and accurately informed that the TPA process is nonbinding.[33]

D. TPA costs and participating carrier retail rates

NARUC's comments raise a question about how participating carriers will recover the costs of participating in the TPA.[34] With respect to the Joint Parties, the Joint Parties today incur extensive operational costs associated with unauthorized conversions. These include, but are not limited to, revenues lost from customers who have been switched away without authorization, customer service costs associated with handling customer inquiries, and tracking and auditing

---

[32] As discussed, infra, the TPA will also have information available to consumers who inquire about additional remedies that may be available to them.

[33] Along with NARUC, we disagree with the suggestion of the Attorneys General that the consumer's call to the TPA be greeted by a recording. NARUC Comments at 5.

[34] NARUC Comments at 4; Attorneys General Comment at 5.

costs. These costs are part of the cost of doing business in the competitive segment of the telecommunications marketplace today. None of the Joint Parties today attempts to recover these costs using a separate line item. If the Commission's rules are permitted to take effect, it is our judgment that the costs of handling unauthorized conversions for the industry will rise significantly. The TPA process will certainly produce a smaller cost increase than the Commission's new rules, and is likely to be less expensive to administer even relative to today's system over time. As a result, it is our expectation that the Joint Parties will continue to recover the costs associated with the TPA in the same way as we today recover the costs associated with unauthorized conversion -- as an overhead cost built into our overall rate structure, and not as a separately identified line item.

E. Exceptions to proxy requirements

Commenters have argued, and we agree, that in a factual circumstance where an unauthorized carrier's rates are more than double the preferred carrier's rates, a 50 percent discount or crediting will not operate in the consumer's interest since the consumer will pay for telecommunications service at a rate above his or her preferred carrier's rates.[35] That is an issue that the Joint Parties identified in our initial waiver request. The Joint Parties, however, believe that this particular factual circumstance will be relatively uncommon. Most carriers who operate in competitive telecommunications markets compete legitimately for consumers' business, and as a result it is highly unusual for there to be enormous fluctuations in rates. But it is possible that consumers could encounter circumstances where they are charged basic rates in lieu of calling

[35] Ohio Commission Comments at 7; SBC Comments at 3-4.

plan rates, or even worse, find themselves switched to an unscrupulous operator whose charges are extremely high relative to the norm. In those instances, the Joint Parties advocate that the preferred carrier have the ability to apply a steeper discount or engage in re-rating if necessary.[36]

The Joint Parties disagree, however, with the comments of Western Iowa, whose comments reflect its views that the proxy proposal is too generous for consumers and does not permit carriers to collect sufficient funds.[37] The TPA proposal submitted is carefully balanced to ensure that, not only are carriers better off relative to the Commission's rules, but consumers are better off, as well. We do not believe the Commission should shrink the discount level proposed.

F. Confidentiality of customer information used by TPA

Both Western Iowa and GTE raise a very important issue with respect to the TPA's operations.[38] The TPA will have access to confidential customer data that, if held by a carrier, would be treated as customer confidential information. The Joint Parties agree that the TPA must be held to the requirement that customer information gathered in the course of executing its functions as third party liability administrator is confidential information that cannot be used, sold, employed, or manipulated for any purpose other than meeting the contractual commitments between the vendor and the governing board. The Joint Parties believe that this commitment to

---

[36] Manual re-rating of a customer's bill can be accomplished on a "one-off" basis, such as this. As the waiver request made clear, however, automated re-rating of customer bills for the thousands of unauthorized conversions that must be processed is impossible today and prohibitively expensive to develop.

[37] Western Iowa Comments at 3, 8.

[38] Western Iowa Comments at 3, 9. GTE Comments at 6.

handle confidential customer information must be included in the contract between the governing board and vendor, and its breach would constitute a serious violation of the contract that would trigger immediate board review. Moreover, the TPA process results in less confidential information being exchanged relative to the Commission's rules. Under the TPA proposal, customer proprietary network information (CPNI) in the form of call detail records -- the most sensitive of CPNI records -- is not exchanged.

G. Ensuring the TPA will be competitively neutral

Several commenters have offered observations on the need to ensure that the TPA is competitively neutral with respect to all industry segments. These comments tend to focus on the composition of the governing board [39] or the funding mechanism suggested.[40] With respect to the composition of the governing board, the Joint Parties made the proposal for a board that contains representatives of all industry segments without regard to whether carriers in all segments would actually participate. The Joint Parties believe that broad participation -- providing voting seats to USTA, ALTS, Comptel, and TRA -- ensures that Board decisions will be made with the input of all types of carriers affected by unauthorized conversions. Significantly, the proposal went further, guaranteeing a minimum of eight seats to incumbent local exchange carriers if there was sufficient interest in board seats among these carriers. Compared to the nine

---

[39] Bell Atlantic Comments at 1 (administrator must be "truly neutral"); USTA Comments at 6, CBT Comments at 2, GTE Comments at 7-9, Bell Atlantic Comments at 5 (all stating that the proposed governing board is more heavily weighted toward long distance carriers who comprise the Joint Parties).

[40] GTE Comments at 4.

seats available to the long distance segment, this guaranteed minimum for eight ILEC seats was our attempt to demonstrate that we are very interested in a TPA that represents the entire industry. In addition, two carriers participating in the TPA proposal -- Sprint and Fronteir-- represent carriers with significant ILEC operations. We disagree, therefore, that the governing structure is "skewed" to represent interexchange carrier interests.

However, the Joint Parties also recognized that the TPA is a voluntary organization, and at the time we made the proposal, we had no information about whether any carriers beyond the Joint Parties would be willing, or even interested, in joining. The Joint Parties strongly believe that the Board -- other than the association seats and the nonvoting governmental and public interest seats -- should be composed of participating carriers. If there is sufficient interest on the part of other carriers in joining the TPA, the Joint Parties believe that it is possible and desireable to adjust Board membership accordingly. For this reason, we urge that the Commission, in adopting the waiver proposal, indicate that membership in the Board can be adjusted to accommodate additional participating carriers.[41]

With respect to the funding issue, the Joint Parties have left open the issue of the specific formula that will be used to assess participating carriers. It is the Joint Parties' view that leaving

---

[41] Comments that the board should be constituted under the Federal Advisory Committee Act, or that there should be more expansive customer participation, should not be adopted. See Attorneys General Comments at 10. The TPA is a voluntary and nonbinding process. It is unnecessary and inconsistent with the Commission's desire to create a voluntary alternative to its rule to proceed down the path of creating a federal advisory committee, which suggests a binding and mandatory structure. Moreover, concerns that diverse representation are needed to ensure that the TPA is adequately administered are misplaced. When the TPA operates pursuant to a waiver, it operates at the discretion of the Commission. The waiver can be revoked or modified at any time. Further, any interested party can raise issues with the operation of the TPA, e.g., through complaints, declaratory rulings, or infornally.

this question open for now is the better course, because there are predictable differences of opinion on funding formulas, based on the industry's experience with other industry-wide funds. The Joint Parties did not seek to foreclose the participation of other industry segments by proposing a funding mechanism that would be acceptable to us, but unacceptable to others. For this reason, we believe the Commission should also not prescribe a formula, but allow carriers interested in participating in the TPA to develop a consensus approach that ensures maximum participation.[42]

H. Reporting mechanisms

In the TPA proposal, state and federal regulatory agencies are specifically included in the list of entities that will receive monthly reports stemming from TPA activities. This is a significant improvement over today's environment where the regulatory agencies must wade through thousands of consumer complaints before they are able to piece together a picture of what is happening in the marketplace. With the advent of the TPA, regulatory agencies will be able to receive each month a report of the prior month's activities, a report that will be far more "real time" than today's mechanisms permit.

In response to this proposal, the Attorneys General have sought clarification on whether

---

[42] For this reason, the Joint Parties respectfully disagree with GTE's comments that there should be no annual assessment based on revenues. In addition to reminding GTE that the specific formulation of the contribution is an open issue, the Joint Parties must also acknowledge that interested vendors have advised that a predictable revenue source is more likely to provide a stable base of funding and will make the contract less expensive to perform. For this reason, we do not wish to rely in the first instance on "per complaint" fees. We have also limited the "per complaint" fees to a maximum of $50, based on the advice and guidance of smaller carriers who sought certainty that their participation would not be excessively expensive.

their offices would also receive reports. We are happy to make this clarification. Attorneys General have an important consumer protection role to play in guarding against fraudulent behavior by carriers. Like regulatory agencies, Attorneys General use complaint statistics to assist them in determining what actions to initiate and in focusing their scarce enforcement resources. Attorneys General will therefore need access to monthly reporting from the TPA as well. In addition, as we proposed in the waiver petition, Attorneys General may also, consistent with applicable law, subpeona additional records not routinely provided in monthly reporting should such additional information be useful to them in their law enforcement activities.

I. Commission role if consumer initiates a post-TPA complaint

As proposed, the TPA is charged with conducting a nonbinding dispute resolution process. The Joint Parties do not seek to substitute the TPA process for the jurisdiction of a regulatory agency -- indeed, we believe it would be unlawful to do so. Our proposal is a limited one -- we seek, through operation of a Commission-authorized waiver, to conduct a nonbinding dispute resolution process that will ensure the minimum amount of inconvenience to consumers who find themselves being billed by a carrier not of their choosing, and to compensate them through the optional credit of up to 30 days' free service (if the customer has not paid) and the 50 percent discount available through the proxy, for the inconvenience they have already suffered. The proposal does not foreclose a consumer, upon resolution of the TPA dispute process, from proceeding further to a Commission (or state commission) complaint if the consumer is not satisfied, even in a case where the TPA found in the consumer's favor. Moreover, the outcome of the TPA process, while it may illuminate a subsequent complaint, is not binding on any regulatory

agency.

Based on this proposal, the Attorneys General have asked for further clarification about the Commission's role if a consumer takes its complaint to the Commission at the conclusion of the TPA process. Specifically, the Attorneys General seek further explanation of what remedies the Commission could impose in the event it determines an unauthorized conversion occurs, and what rules will apply to the adjudication of the complaint.

In order to realize the benefit of the more streamlined and efficient TPA process that participating carriers will be funding, the Joint Parties advocate that when a "post-TPA consumer" files a complaint with the Commission, the rules adopted in the *Second Order* cannot apply. If the rules did apply, carriers would be forced to support both the TPA process and the Commission's rules, losing the administrative benefits that the TPA introduces. Smaller carriers, in particular, would be have much less incentive to join the TPA, which would result in the TPA handling fewer complaints. In lieu of the rules announced in the *Second Order*, the Joint Parties advocate that the consumer complaint proceed according to the normal complaint rules, permitting the carrier to respond to the consumer inquiry. In this circumstance, the Commission would have available to it all of its enforcement powers that it ordinarily has -- including the ability to order up to a 30 days' credit for service if the Commission so determines, and so long as the 30 day credit provision remains an effective provision of the Commission's rules.[43] The fact that the Joint Parties have requested a waiver of the specific rules articulated in the *Second Order* for the purpose of following a different set of procedures to achieve customer crediting and

[43] The Joint Parties note that the Petitions for Reconsideration filed in the above-captioned docket contain numerous legal challenges to the 30 day credit provision.

carrier-to-carrier liability cannot be equated with a generalized "exemption" from the Commission's enforcement powers. The Joint Parties did not seek such an exemption, and none should be granted.

IV. CERTAIN PROPOSED MODIFICATIONS WILL ELIMINATE THE CONSUMER BENEFITS THE TPA PROVIDES

A. TPA-directed PIC change provides value for the consumer and must be permitted

Several parties have raised concerns with the aspect of the proposal that allows the TPA to direct a PIC change on behalf of a consumer.[44] These parties argue that only the LECs should be allowed implement a PIC change when a customer requests to be returned to his or her preferred carrier.

As an initial matter, the TPA proposal is not a plan for preventing LECs from executing PIC change requests. First, the TPA is voluntary, and LECs may choose not to participate in it. Second, a nonparticipating LEC may or may not decide that it will refer complaints about unauthorized conversions that it receives directly to the TPA for action. The LEC could, for example, simply decide that any customer who complains of an unauthorized conversion will be immediately transferred to the TPA, and allow the TPA's call center to handle the activity necessary to initiate a PIC change and dispute resolution. On the other hand, a LEC might decide to initiate the customer PIC change and then refer the customer to the TPA for dispute resolution. Because this is a voluntary process, the Joint Parties do not seek to have the Commission mandate how ILECs will handle PIC changes associated with unauthorized conversion complaints.

---

[44] Bell Atlantic Comments at 1-2 and footnote 2. US West Comments at 5-6.

The Joint Parties do believe, however, that to the extent consumers are served by an entity that has the capability to resolve all of their problems, consumers are better served. Having the TPA direct the PIC change for a consumer that has been slammed adds significant value to the transaction for the consumer, and helps create a "one stop shopping" environment where the consumer only has to make one call to correct his or her PIC and initiate a complaint.[45] In addition, consumer complaints that are referred to the TPA from entities other than ILECs may not yet have been reported to an executing LEC for a PIC change. Having this capability as part of the TPA ensures the consumers are not referred again -- for a third time -- to have their problem corrected. Once the consumer complaint arrives at the TPA, the TPA can handle the complaint and PIC change without further referral. The Joint Parties therefore believe that the TPA must have the PIC change capability, and that ILECs must be directed to accept PIC change requests initiated by the TPA.

B. "Clearinghouse" role for the TPA

Some commenters have argued that the TPA should function as a clearinghouse for payments of PIC change fees and carrier to carrier liability.[46] In this version, the TPA would collect and disburse monies among and between carriers. Its functions would not be limited to keeping track of payments due, and simply reporting amounts due to carriers.

While the Joint Parties have discussed this option for the TPA, and would not seek to

---

[45] A PIC change is a separate process from ILEC issuance of a bill credit, a process discussed infra.

[46] SBC Comments at 11.

foreclose this function from future TPA duties, we are reluctant to propose it initially because prospective vendors have cautioned us that adding this function would add substantially to the cost of the TPA. The business of serving as a clearinghouse for carrier payments presents a host of issues that would require the TPA to exercise fiduciary responsibilities to the industry. While this may emerge as a logical next step for the TPA, its complexity and cost may interfere with the ability of a vendor to build out its TPA functions in the required time. As our conversations with other vendors continue, however, we intend to review this question with them. We agree with SBC that if this function adds value to the TPA process from the ILEC perspective, then it ought to be seriously considered and actively pursued.

C. Funding

Several commenters commented on various aspects of funding for the TPA and cost recovery for other costs that individual carriers would incur in order to participate.[47] Others commented on the proposed annual assessment that would be based on carrier revenue, using a formula to be determined, or commented on the proposal to offset annual assessments by charging "per dispute" fees of up to $50 to recover TPA's cost.[48]

The decision to propose an annual assessment on participating carriers as a basis for funding the TPA has been driven by vendor conversations and the Joint Parties' desire to design a system that will be as cost effective as possible. Basing a funding source for the TPA on variable

---

[47] GTE Comments at 5 (executing carriers need a way to recover their expenses of complying with TPA).

[48] SBC Comments at 6 (and TPA should recover its costs only from participating carriers); Western Iowa Comments at 2.

and unknown numbers of disputes places much higher risk on the vendor. Higher risk is likely to translate into a higher contract price. A stable base of annual assessments from participating carriers, by contrast, ensures the vendor that its operating costs will be covered during the budget year. Further, the specific formula to be used (e.g., total revenues, revenues net of access charges, telecommunications revenues) has specifically and purposefully been left unresolved. The Joint Parties do not want to foreclose participation by the LECs in the TPA by proposing, and having the Commission adopt, a funding mechanism that the LECs would consider adverse to their interests. Rather, the Joint Parties believe that the funding mechanism should be resolved among carriers interested in participating in the TPA, with a view toward including the maximum number of carriers in the process[49]

Like many of the commenters, however, the Joint Parties agree that placing some portion of the budgetary burden on those who cause the activity is desirable. For that reason, we proposed a "per dispute" fee, the specifics of which would be determined but in no event to be set at a level higher than $50, in order to lessen the burden on other carriers participating in the TPA. The $50 limit was selected as a reasonable level beyond which smaller carriers might forgo participation in the TPA. Further, it is proposed as an upper limit--the fee could be lower depending upon the TPA's cost, and governing board decisions.

D. Requirement that nonparticipating carriers follow TPA rules on a "per dispute" basis

Several parties have argued that the application of TPA rules to disputes where one of the

[49] Of course, we continue to believe that exempting carriers with less than $100 million in revenue from annual assessments has the beneficial effect of encouraging participation in the TPA by the smaller carriers in the industry.

carriers is nonparticipating should not be permitted.[50] These parties argue that the TPA rules would burden nonparticipating carriers with additional costs, since they will have to be prepared to implement both the Commission's rules as promulgated and the rules adopted pursuant to this waiver request.[51]

The Joint Parties disagree. If a consumer complaint is involves nonparticipating carriers, nonparticipating carriers may elect to follow the Commission's rules in resolving the consumer's complaint. If the complaint is lodged with a participating carrier, or arrives at the TPA through another source (e.g., a direct call or referral from a regulatory agency), then the process detailed in the waiver request applies. If the nonparticipating carrier is the accused carrier, the accused carrier will receive a notice from the TPA, and has a opportunity to produce a verification to the TPA in 20 days. If the accused carrier chooses to provide the verification, it is *better* protected than if the Commission's rules applied, because the decision about whether an unauthorized conversion occurred is in the hands of a neutral third party.[52] If the accused carrier does not produce the verification, the TPA will find an unauthorized conversion occurred.

At the time an unauthorized conversion is determined to have occurred, the nonparticipating unauthorized carrier has *fewer* obligations under the TPA rules than under the Commission rules. In the TPA process, the carrier must produce a total invoice amount for the

---

[50] Bell Atlantic Comments at 1, 3.

[51] Bell Atlantic Comments at 2-5; US West Comments at 3; USTA Comments at 6-7; SBC Comments at 4-5.

[52] In addition, an exonerated carrier under the TPA process can proceed to initiate collections itself to the extent the customer has not paid. This is more desirable than the Commission's rules, which require the exonerated carrier to use the preferred carrier as a billing agent -- a concept that virtually all commenting parties believe is unworkable.

customer and deliver it to the TPA. Under the Commission rules, the unauthorized carrier must produce the entire billing record, including call detail information. As a matter of business process, the unauthorized carrier might choose to give the TPA the entire billing record per the Commission's rules (and thereby avoiding having to make a distinction between its responses to the TPA and its responses to the preferred carrier under the Commission's methodology). But that is the unauthorized carrier's choice. While the TPA may receive more information than it needs for its process from the unauthorized carrier, the TPA need only to be able to obtain the total invoice amount from the unauthorized carrier's record.

Furthermore, with respect to any payments owed for TPA-determined unauthorized conversions, the unauthorized carrier in this circumstance is going to be remitting the customer's payment to the preferred carrier, just as the Commission's rules require. The only process change is that the TPA will send the nonparticipating, unauthorized carrier notice limiting the payment to the most recent 90 days of service that the unauthorized carrier provided.

The Joint Parties expect that virtually the entire long distance industry is interested in participating, and will participate, in the TPA process. Assume for a moment that an ILEC chooses not to participate, for example, in its capacity as a provider of intrastate toll services in competition with other carriers. Further assume that the ILEC chooses not to refer complaints to the TPA. If customer complains to the ILEC -- whether the ILEC is accused or preferred -- in the absence of a requirement that the complaint be referred to the TPA because it involves a participating carrier, the ILEC would be required to follow the Commissions's rules with respect to the investigation, dispute resolution and liability process. The participating carrier would then be required to support two processes -- the TPA process and the Commission' rule process.

Stated differently, the carrier that has already invested in third party administration in an effort to resolve disputes in a consumer-friendly way, must -- in the absence of a rule requiring TPA procress to be followed -- support the more onerous and inefficient set of rules announced in the *Second Order*, as well as the TPA process. This will have the effect of eliminating incentives on the part of carriers who would otherwise be willing to support the more efficient, streamlined TPA process.

Carriers who have offered to provide consumers with 'one stop shopping" to correct problems associated with unauthorized conversions must be given the benefits of the waiver process that flow from, and correspond to, the costs associated with participating in the TPA. For this reason, the Joint Parties request that the Commission specify that whenever a complaint involves a nonparticipating carrier as the authorized or accused carrier in a dispute, the complaint must be referred to the TPA for dispute resolution. The TPA can and will provide lists of its participating members in whatever formats and using whatever technology that are reasonable and desirable, including maintaining a list of participants on its web site. It should be no mystery to any nonparticipating carrier who is participating in the TPA.

Finally, we agree with the comments of some ILECs that having two different processes for the resolution of consumer complaints -- one under the Commission rules that nonparticipating carriers would follow when the complaint does not involve a nonparticipating carrier, and one under the TPA rules for all other complaints -- might introduce some confusion because consumers as a group would experience two different dispute resolution methods. However, both processes effectively stop the requirement that a consumer pay his or her bill, and both provide up to a 30 day credit for the consumer if an unauthorized conversion occurred.

Both also make ample provision to have the consumer immediately switched to his or her preferred carrier. In the view of the Joint Parties and many of the commenters -- including the ILECs -- a neutral third party dispute resolution process is inherently superior to one that is managed by an interested party (the preferred carrier), reduces the time that consumers will wait for a decision and resolution of their complaint, and is much more likely to produce greater satisfaction on the part of consumers that they have been dealt with fairly, efficiently, and that will ensure they understand the resolution of their complaint.

E. TPA would exist at the discretion of the Commission pursuant to federal law, and can only operate in lieu of federal rules

NARUC has asked whether the TPA should also be used to enforce state laws concerning unauthorized conversions. NARUC also expresses concerns that states might have difficulty adjudicating unauthorized conversions if their adjudication follows, and conflicts with, a TPA determination. Similarly, the Attorneys General argue that the TPA should not operate as a substitute for all the various remedies available today to consumers.[53]

The TPA proposal was made at the specific suggestion of the Commission in its *Second Order* to operate in lieu of the Commission's rules. As the Joint Parties understand those rules, they apply to any incident of unauthorized conversions involving interstate or intrastate activities of carriers. The Joint Parties did not seek, and are not seeking for the operation of the waiver

[53] Attorneys General Comments at 2-3.

rules, any increase or decrease in the application of federal law.[54] If the Commission's *Second Order* applied to a dispute, then the waiver rules administered by the TPA would apply in lieu of the *Second Order* rules whenever a dispute involved a participating carrier. State law might also apply to that dispute, and nothing in the waiver proposal seeks to displace the normal operation of state law.

In considering NARUC's comments, the Joint Parties have examined the question of whether the Commission, in taking federal action to grant the waiver pursuant to federal law, should authorize the TPA to enforce state law. We have concluded that this proposal would raise significant legal questions. To the extent NARUC was not seeking Commission action -- but merely offering a suggestion that the TPA carriers seek state-by-state waivers so that the TPA could operate to simultaneously enforce state remedies as well as federal ones, that would require the Joint Parties to approach each state with an individualized waiver request separate and apart from the proceeding now before the Commission. We do agree, however, that the TPA should be able to refer a consumer to his or her state regulatory agency (and to the Commission) if the consumer is dissatisfied, or, in cases where state remedies are more extensive than federal ones, where the consumer seeks additional remedies.

On the issue of whether a TPA resolution would make it more difficult for a state to reach a post-TPA resolution that conflicted with the TPA finding, the Joint Parties wish to remind NARUC that the TPA dispute resolution process is a non-binding one. At its most basic level, the dispute resolution is a privately-financed, and neutrally-administered, means of resolving disputes quickly and to the satisfaction of the consumer. It does not prevent a consumer from complaining

[54] Ohio Commission Comments at 5.

to state or federal authorities, and its "finding" cannot prevent a regulatory authority from reaching a different conclusion on the facts. In addition, carriers whose disputes are resolved through the TPA otherwise remain subject to all other Commission rules, state regulatory rules, civil penalties, and criminal penalties that exist today and that are applied by state and federal agencies.

While the TPA process is designed to be more convenient for consumers relative to existing rules, the TPA also exists for another important public policy reason, i.e., to create a competitively neutral environment for the resolution of complaints. Thus, the Joint Parties cannot agree with the Attorneys General that , simultaneous with the TPA process, the ILECs should also be involved in adjudicating complaints. For the reasons discussed below, the ILECs have no incentive to investigate complaints of unauthorized conversions, and have made it their practice to issue credits without any investigation. Moreover, as national carriers, the Joint Parties need national rules to apply to the greatest number of unauthorized conversion complaints. The costs of complying with multiple enforcement systems only increases carrier costs -- and rates. In addition, the approach has not demonstrably solved the "problem" the Attorneys General are trying to fix. At least in the Commission's view, the multiple jurisdictional approach was apparently ineffective as of December 1998, else there would have been no need for federal rules that extend into intrastate complaints. By contrast, our proposal suggests an efficient, and we hope effective, means to deter unauthorized conversions using the very same deterrents that the Commission employed in its *Second Report and Order*, namely up to 30 days credit (where the customer has not paid) and the requirement that the unauthorized carrier disgorge revenues.

F. TPA should not be used to resolve unrelated complaints

Commenters have requested further clarity on complaints the TPA will handle, as opposed to complaints it will refer away. In addition, NARUC argues that deceptive telemarketing resulting in a sale should be treated as an unauthorized conversion.[55]

The Commission should not turn the TPA into a clearinghouse for all complaint activities by requiring the TPA to field unrelated complaints. The TPA is being created to assist consumers when they perceive -- rightly or wrongly -- that they have been switched to a carrier not of their choosing. If the consumer alleges that there was an unauthorized conversion, the TPA should handle the complaint. On the other hand, if the consumer merely alleges fraudulent marketing (e.g., I was promised 10 cents a minute but I'm being charged 20 cents), that is a complaint involving fraudulent marketing. Whatever culpability a carrier in that case would have for its deceptive marketing practices, the conversion of that customer was entirely authorized. Resisting the temptation to enlarge the scope of the TPA's operations is significant, because enlarging the scope of operations translates into higher cost, which in turn will translate into less participation.[56] In addition to enlarging the scope of the TPA's jurisdiction, the suggestion would add exponentially greater complexity to the TPA's task of evaluating complaints, because the standards for what constitutes a "deceptive" representation are far less objective than the

---

[55] NARUC Comments at 4.

[56] For calls that are mis-directed to TPA, consumers will initially be directed to contact their carrier. We agree with the comments of Western Iowa and others that referring the consumer to the carrier for resolution of the consumer's problem is the best result. Western Iowa Comments at 3, 10-11. Of course, callers may insist that they have already talked with their carrier to no avail. Where disgruntled consumers insist, the TPA will have information available upon request to direct that consumer to a regulatory agency. But directing a consumer to a regulatory agency is an option to be reserved only for consumers who insist upon it.

standards for what constitutes compliance with verification requirements.

G. Proxy payments and credits

Some parties have raised concerns that disputes over the amounts of service charges incurred may arise, and that there is no provision for a consumer to challenge the credit or payment he or she will receive if the consumer believes the total invoice amount is incorrect.[57] The Joint Parties have no evidence suggesting that this is a widespread problem -- while consumers may be unhappy with the unauthorized carrier's rates, the accuracy of the invoice calculation or the inclusion of charges for calls that a consumer has not made appears to be a much less frequent occurrence. In cases where these facts arise, however, it is in the preferred carrier's business interest to satisfy his or her customer. Carriers should be able to adjust consumer credits for this reason in cases where a consumer alleges a calculation error or the total invoice amount is based on calls the consumer alleges he or she did not make. [58]

V. RATIONALES ADVANCED FOR REJECTING THE TPA ARE UNFOUNDED AND MISGUIDED

A few commenters, primarily US West, SBC, and USTA, have made different arguments about why the TPA proposal should be rejected. One commenter says the plan results in an unreasonable and unlawful interference with billing and collection contracts between ILECs and

---

[57] NARUC Comments at 4.

[58] We do not believe that there would need to be an adjustment for any "late-payment" fees if the customer chose not to pay his or her bills. The TPA proposal envisions suspending customer payments on disputed charges. No late fees should be attributed to a customer's failure to pay a disputed charge.

interexchange carriers.[59] One ILEC, in an opinion not supported by consumer commenters, argued that the process would be burdensome for consumers.[60] That same ILEC argues that the industry does not "need" a TPA to perform carrier-to-carrier liability.[61] Others -- without knowing or understanding interexchange carrier costs under the Commission's *Second Order* rules -- dismiss the TPA as being "too costly", or argue that the Commission must first engage in an elaborate cost/benefit analysis before approving the voluntary TPA.[62] These parties advance other arguments that the TPA mechanism is ineffective to curb unauthorized conversions in that it cannot force unauthorized carriers to remit payments to preferred carriers.[63] Of course, these same parties do not explain how the Commission's rules address this issue any better. Alternatively, the TPA is labeled as being complex, with too many operational details left unresolved.[64] These same few ILECs state that today's processes, and the Commission's rules, will be more effective in deterring unauthorized conversions. However, these few ILECs appear to be alone in this view.

---

[59] SBC Comments at 8

[60] US West Comments at 3-5

[61] US West Comments at 4-5 and note 8. However, US West admits that there are no processes in place today to accomplish the Commission's requirement that carriers initiate carrier to carrier communication to resolve disputes. In today's world, the ILEC notifies the slamming carrier that Account X has left, and the preferred carrier is notified that it now has Account X. US West acknowledges that "some type of information feed" will have to be developed to fed to carriers and/or the TPA so that the preferred carrier can identify the unauthorized carrier.

[62] SBC Comments at 9; GTE Comments at 6 (urging a cost benefit analysis).

[63] SBC Comments at 10-11.

[64] USTA Comments at 3-4

The Commission should not credit these opinions of a small minority of commenters. The majority of the commenters either agree that the TPA proposal is better for consumers, regulatory agencies, and carriers, or they at least find merit in the proposals sufficient to seek modification of its particular terms. The Joint Parties, which themselves include two carriers with significant ILEC interests, represent virtually the entire long distance industry which bears the brunt of implementing and executing the new slamming rules and remedies.

What these few parties are objecting to are not the specifics of the TPA plan, but the creation of an entity that would remove the control that ILECs have today over the customer crediting and recourse process in the majority of cases where the ILEC is the billing agent for the long distance carrier. It is a simple matter for an ILEC today to credit the customer and present the bill to the long distance carrier without the long distance carrier agreeing to the credit and recourse. In doing so, the ILEC is effectively spending the long distance carrier's money with no ability on the part of the long distance carrier to curb overzealous ILEC practices. The TPA would be the first step in changing that relationship, by ending the ILEC-initiated "crediting/recourse' process and substituting a suspension of the customer's long distance charges pending the outcome of the dispute resolution process. This ensures that long distance companies are not financially harmed from consumers who fraudulently seek 30 day credits, or ILECs who are overzealous in their decisions to issue credits for any consumer complaint. It is is a significant and material benefit that makes funding and supporting the TPA possible from a business perspective. Significantly, a "suspension" model also benefits consumers. There is simply no reason to create confusion in the resolution of unauthorized conversion complaints by issuing "credits" to a customer, and then -- some weeks or a month later -- having an exonerated

carrier pursue the customer for charges due and owing. In addition, the ILEC "crediting/recourse" model, because it opens the door to potential fraud, drives carriers to create their own direct remit bills, although customers often prefer one combined bill for telephone service.

Nor does the "crediting/recourse" model support the Commission's rules as promulgated. In today's environment, only a handful of local exchange carriers provide the customer identification detail necessary to support re-billing in the event an accused carrier is exonerated. By contrast, the TPA does support the opportunity for the exonerated carrier to collect for services rendered pursuant to a valid authorization.

Moreover, there is no legal impediment to a lawful exercise of Commission authority that might conflict with privately negotiated billing and collection contracts. The Commission can abrogate carrier contracts if it finds that there is an over-riding public interest reason to do so. Under the Sierra-Mobile doctrine established by the Supreme Court, a carrier-to-carrier contract once made cannot be superceded by one party to the contract, through the filing of a tariff with provisions that are inconsistent with the contract, unless the regulatory agency finds that the contract is contrary to the public interest.[65] The Sierra-Mobile doctrine thus assumes that the agency has authority to invalidate a carrier's contract. In fact, the Commission has relied upon

---

[65] FCC v. Sierra Pacific Power Co., 350 U.S. 348(1956); United Gas Co. Vs. Mobile Gas Corp., 350 U.S. 332 (1956)(collectively, the "Sierra-Mobile" doctrine). Moreover, nothing in the Commission's 1986 decision to regulate billing and collection under Title I suggests that the Commission could not now exercise Title I authority to the extent necessary to effectuate its Title II authority in connection with slamming and customer-carrier and intercarrier liability. Detariffing of Billing and Collection, 102 FCC 2d 1150 (1986).

this power to invalidate carrier contracts.[66] The Commission's authority to override the customer crediting aspects of the current billing and collection contracts is unassailable. The public policy reason to do so is to create a process that results in a smaller amount of disputed dollars needed to be collected by exonerated carriers from confused and unhappy customers who understand only that they received a "credit" weeks before. The Commission should not hesitate to use this authority here, where billing and collection contracts are not "negotiated" in the ordinary sense of the term, but are pure contracts of adhesion with monopoly billing providers. The Commission can and should decide that ILECs may not issue credits, and recourse long distance carriers, upon receipt of a complaint concerning a participating carrier.

VI. CONCLUSION

Interested parties have suggested that there is a need for further discussion and consideration of the TPA before it can be operationalized. The Joint Parties agree. What we do not agree with is the suggestion that extensive operational and costing details need to be resolved before the Commission can approve this proposal as a voluntary mechanism to operate in lieu of Commission rules. Interminable delay merely to allow ILECs to proceed to apply current crediting and recourse practices to the detriment of the long distance industry and consumers is not the solution. We look forward to working collaboratively with all interested parties on the specifics of the design.

---

[66] Western Union Telegraph Company v. FCC, 822 F2d 80 (1987)(affirming the Commisions Docket 20099 decision declaring unlawful interconnection contracts that were not in the public interest).

The Joint Parties therefore urge prompt action on our waiver request, as modified in the instant Reply Comments.

Respectfully submitted,

Mark C. Rosenblum
Peter H. Jacoby
AT&T Corporation
295 North Maple Avenue
Basking Ridge, NJ 07920
908-221-4243

Mary L. Brown
MCI WorldCom, Inc.
1801 Pennsylvania Avenue N.W.
Washington, D.C.
202-887-2551

Leon Kestenbaum
Jay C. Keithley
Michael B. Fingerhut
Sprint Corporation
1850 M Street, N.W., Suite 1100
Washington, D.C. 20036
202-828-7438

Genevieve Morelli
Senior Vice President of Government Affairs & Senior Associate General Counsel
Qwest Communications Corporation
4250 North Fairfax Drive
Arlington, VA 22203
703-363-0220

Carol Ann Bischoff
Robert M. McDowell
Competitive Telecommunications Association
1900 M Street, N.W., Suite 800
Washington, D.C. 20036
202-296-6650

Rachel J. Rothstein
Brent M. Olson
Paul W. Kenefick
Cable & Wireless USA
8219 Lessburgh Pike
Vienna VA 22182
(703) 405-5785

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
Telecommunications Resellers Assn.
1620 I Street, N..W., Suite 701
Washington, D.C. 20006
202-293-2500

April 26, 1999

James M. Smith
Vice President
Excel Telecommunications, Inc.
1133 Connecticut Avenue, N.W.
Suite 750
Washington, D.C. 20036
202-331-4295

Michael J. Shortley, III
Senior Attorney & Director
Regulatory Services
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646
716-777-1028

CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that copies of the foregoing Reply Comments were sent, on this 26th day of April, 1999, via first-class mail, postage pre-paid, to the following:

Chairman William E. Kennard**
Federal Communications Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

Commissioner Harold Furchgott-Roth**
Federal Communications Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

Commissioner Michael K. Powell**
Federal Communications Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

Commissioner Susan P. Ness**
Federal Communications Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

Anita Cheng**
Common Carrier Bureau
Federal Communication Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

Dorothy Attwood**
Chief, Enforcement Division
Federal Communication Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Glenn Reynolds**
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Alexander P. Starr**
Federal Communications Commission
The Portals
445 12th Street, SW.
Washington, DC 20554

Judy Boley**
Federal Communication Commission
The Portals
445 12th Street, SW, Room A1836
Washington, DC 20554

Kathy Brown**
Federal Communications Commission
The Portals
445 12th Street, SW, 8th Fl.
Washington, DC 20554

ITS**
1231 20th Street, NW
Washington, DC 20037

Kevin C. Gallagher
360° Communications Company
8725 W. Higgins Road
Chicago, IL 60631

Rogena Harris
Harisha Bastiampillai
Helein & Associates, P.C.
Counsel for ACTA
8180 Greensboro Drive, Suite 700
McLean, VA 22102

David A. Gross
AirTouch Communications
1818 N Street, Suite 800
Washington, DC 20036

Gary L. Phillips
Counsel for Ameritech
1401 H Street, N.W., #1020
Washington, DC 20005

Mark C. Rosenblum
Peter H. Jacoby
Attorneys for AT&T Corp.
295 North Maple Avenue
Room 3250J1
Basking Ridge, NJ 07920

James G. Pachulski
Stephen E. Bozzo
Bell Atlantic Telephone Companies
1320 North Court House Road
Eight Floor
Arlington, VA 22201

John T. Scott, III
Crowell & Moring LLP
Attorneys for Bell Atlantic Mobile, Inc.
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004

M. Robert Sutherland
Richard M. Sbaratta
Attorneys for BellSouth Corporation and
BellSouth Telecommunications, Inc.
1155 Peachtree Street, N.E., Suite 1700
Atlanta, GA 30309-3610

Danny E. Adams
Rebekah J. Kinnett
Kelley Drye & Warren LLP
for Billing Information Concepts Corp.
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Robert Taylor
Brittain Communications International Corp.
600 Jefferson. Suite 500
Houston, TX 77002

Paul W. Kenefick
Cable and Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Peter Arth, Jr., Lionel B. Wilson
Mary Mack Adu, Helen M. Mickiewicz
for the People of the State of California and
for the PUC of the State of California
505 Van Ness Ave.
San Francisco, CA 94102

Christopher J. Wilson, Jack B. Harrison
Frost & Jacobs LLP
Attys for Cincinnati Bell Telephone
2500 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

John B. Adams
Citizens Utilites Company
1400 16th Street, NW
Suite 500
Washington, DC 20036

Carol Anne Bischoff
Robert McDowell
The Competitive Telecomunications Assn.
1900 M Street, N.W.
Suite 800
Washington, DC 20036

Robert J. Aamoth
John J. Heitmann
Kelley Drye & Warren LLP
Attys for CTA
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Ian D. Volner
Heather L. McDowell
Venable, Baetjer, Howard & Civiletti, LLP
Counsel for The Direct Marketing Assoc.
1201 New York Avenue, N.W., Suite 1000
Washington, DC 20005

J. Christopher Dance
Robbin Johnson
Excel Communications, Inc.
8750 North Central Expressway
Dallas, TX 75231

Dana Frix
C. Joel Van Over
Swidler & Berlin, Chartered
Counsel for Excel Communications, Inc.
3000 K Street, N.W., Suite 300
Washington, DC 20007

Cynthia B. Miller
Florida Public Sevice Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Michael J. Shortley, III
Attorney for Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, DC 20036

Richard McKenna
GTE Service Operations
600 Hidden Ridge, HQE03J27
Irving, TX 75015

Jeffrey S. Linder
Suzanne Yelen
Wiley, Rein & Fielding
Attorneys for GTE Service Corp.
1776 K Street, N.W.
Washington, DC 20006

Jonathan E. Canis
Andrea D. Pruitt
Kelley Drye & Warren LLP
for Intermedia Communications Inc.
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Gary L. Mann
IXC Long Distance, Inc.
98 San Jancinto Boulevard
Suite 700
Austin, TX 78701

Douglas W. Kinkoph
LCI International Telecom Corp.
8180 Greensboro Drive, #800
McLean, VA 22102

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
6 Saint Paul Street
Baltimore, MD 21202

Karen Finstad Hammel
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

Linda F. Golodner
Susan Grant
National Consumers League
1701 K Street, N.W., Suite 1200
Washington, DC 20006

Timothy S. Carey, Ann Kutter
Kevin M. Bronner, Douglas W. Elfner
Stephen A. Berger
New York State Consumer Protection Board
5 Empire State Plaza
Albany, NY 12223-1556

Lawrenece G. Malone
New York State Dept. of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Robert P. Gruber
Antoinette R. Wike
Vickie L. Moir
Public Staff-North Carolina Utilities Comm.
P.O. Box 29520
Raleigh, NC 27626-0520

Robert Tongren
David C. Bergmann
Ohio Consumers' Counsel
77 South High Street, 15th Floor
Columbus, OH 43221-4568

Phillip F. McClelland
Irwin A. Popowsky
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Joseph Kahl
RCN Telecom Services, Inc.
105 Carnegie Center
Princeton, NJ 08540

Jean L. Kiddoo, Dana Frix
Marcy Greene
Swidler & Berlin Chartered
Counsel for RCN Telecom Services, Inc.
3000 K Street, N.W. Suite 300
Washington, DC 20007

Wendy S. Bluemling
The Southern New England Telephone Co.
227 Church Street
New Haven, CT 06510

Robert M. Lynch, Durward D. Dupre
Mary W. Marks, Marjorie M. Weisman
Attys for Southwestern Bell Telephone Co.
Pacific Bell and Nevada Bell
One Bell Center, Room 3520
St. Louis, Missouri 63101

Nancy C. Woolf
Jeffrey B. Thomas
Atty for Southwestern Bell Telephone Co.
Pacific Bell and Nevada Bell
140 New Montgomery St., Room 1529
San Francisco, CA 94105

Leon M. Kestenbaum
Jay C. Keithley
Michael C. Fingerhut
Counsel for Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, DC 20036

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
for Telecommunications Resellers Assoc.
1620 I Street, N.W., Suite 701
Washington, DC 20006

Suzi Ray McClellan
Kristen Doyle
Texas Office of Public Utility Counsel
P.O. Box 12397
Austin, TX 78711-2397

Pat Wood, III
Judy Walsh
Public Utility Commission of Texas
1701 N. Congress Avenue, 7th Floor
Austin, TX 78711

David R. Poe
Yvonne M. Coviello
LeBoeuf, Lamb, Greene & MacRae LLP
for Time Warner Comm. Holdings, Inc.
1875 Connecticut Avenue, N.W., Suite 1200
Washington, DC 20009

Paul B. Jones
Janis Stahlhut
Donald F. Shepheard
Time Warner Comm. Holdings, Inc.
290 Harbor Drive
Stamford, Connecticut 06902

Michael R. Gardner
William J. Gildea, III
Law Offices of Michael R. Gardner, P.C.
Attys for TPV Services, Inc.
1150 Connecticut Avenue, N.W., Suite 710
Washington, DC 20036

Kathryn Marie Krause
Dan L. Poole
Attorneys for US West, Inc.
1020 19th Street, N.W., Suite 700
Washington, DC 20036

Mary McDermott, Linda Kent
Keith Townsend, Hance Haney
U.S. Telephone Association
1401 H Street, N.W., Suite 600
Washington, DC 20005

Peter M. Bluhm
State of Vermont Public Service Board
112 State Street
Drawer 20
Montpelier, VT 05620-2701

Edward C. Addison
Virginia State Corporation Comm. Staff
P.O. Box 1197
Richmond, VA 23218

Timothy R. Graham, Joseph M. Sandri, Jr.
Robert G. Berger, Russell C. Merbeth
Winstar Communications, Inc.
1146 19th Street, N.W., Suite 200
Washington, DC 20036

John P. Finedore
Assistant Director
U.S. General Accounting Office
441 G Street NW, Mail Stop 2723
Washington, DC 20548

Michael R. Volge
Assistant General Counsel
U.S. General Accounting Office
441 G Street, NW
Washington, DC 20548

H. Gilbert Miller
Vice President
Center for Telecommunications and
Advanced Technologies
Mitretek Systems
7525 Colshire Drive
McLean, VA 22101

Michael Dorrian
Director, Business Development
Communications Industry Services
Lockheed Martin
1200 K Street, NW
Washington, DC 20005

Andre LaChance
GTE Service Corporation
1850 M Street, N.W. #1200
Washington, DC 20036

John Windhausen
President
ALTS
888 17th Street, N.W.
Washington, DC 20006

Neil Fishman
Office of the Attorney General
55 Elm Street
Hartfort, CT 06106

Dave Gillis
Office of the Attorney General
P.O. Box 7857
Madison, WI 53707

Joan Smith
Oregon Public Utility Commission
550 Capitol Street, N.E.
Salem, OR 97310

Bob Rowe
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helene, MT 59620

Laska Schonfelder
South Dakota Public Utilities Commission
State Capitol
500 East Capitol Street
Pierre, SD 57501

Julia Johnson
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399

Brad Ramsey
NARUC
1100 Pennsylvania Avenue, NW, Suite 603
P.O. Box 684
Washington, DC 20044

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Association
2626 Pennsylvania Avenue, NW
Washington, DC 20037

James Veileux
VoiceLog LLC
9509 Hanover South Trail
Charlotte, NC 28210

Barry Pineles
Regulatory Counsel
GST Telecom, Inc.
4001 Main Street
Vancouver, WA 98663

Kenneth T. Burchett
Vice President
GVNW Consulting, Inc.
8050 S.W. Warm Springs
Tualatin, OR 97062

Susan M. Eid
Richard A Karre
MediaOne Group, Inc.
1919 Pennsylvania Avenue, NW, Suite 610
Washington, DC 20006

Genevieve Morelli
Jane Kunka
Qwest Communications Corporation
4250 North Fairfax Drive
Arlington, VA 22203

Richard M. Firestone
Paul Feira
Attorneys for TEL-SAVE COM Inc.
Arnold & Porter
5555 12th Street, NW
Washington, DC 20004

Steven Hitchcock
Neil S. Ende
Attorneys for PriceInteractive, Inc.
Technology Law Group LLC
5335 Wisconsin Avenue NW, Suite 440
Washington, DC 20015

Robert M. Lynch
Roger K. Toppins
Barbara Hunt
SBC Communications, Inc.
One Bell Plaza, Room 3026
Dallas, TX 75202

David Cosson
Attorney for The Rural LECS
Kraskin, Lesse & Cosson
2120 L Street, N.W.
Washington, DC 20037

Vivian Lee

HAND DELIVERED